

**MINUTES**  
**WARRICK COUNTY AREA PLAN COMMISSION**

Regular meeting held in Commissioners Meeting Room,  
Third Floor, Historic Court House,  
Boonville, IN  
Monday, October 11, 2010, 6:00 PM

**MEMBERS PRESENT:** Guy Gentry, President, Mike Moesner, Art Noffsinger and Brad Overton.

Also present were Sherri Rector, Executive Director and Sheila Lacer, staff.

**MEMBERS ABSENT:** Phillip Baxter, Tony Curtis and Larry Willis.

**MINUTES:** Upon a motion made by Brad Overton and seconded by Art Noffsinger, the Minutes of the last regular meeting held, September 13, 2010, were approved as circulated.

The President explained the Rules of Procedure to the audience.

**SUBDIVISIONS FOR PRIMARY PLAT APPROVAL:**

PP-10-07 Pebble Creek Subdivision – by R&S, LLC by Dr. Mohammad Hussain, Partner. Owner: Fredrick F. Martin Trust of 2004 by Fredrick F. Martin, Trustee located on the S side of Vann Rd. (S 350) approximately 0' W of the intersection of Vann Rd. and Bell Rd. (W 850). Ohio Twp. (Complete legal on file.) *Advertised in the Boonville Standard September 2, 2010 Continued from the September 13<sup>th</sup> meeting.*

Mrs. Rector stated this item needs to be continued to the November 8, 2010, meeting because they still have issues with the drainage and street construction plans. She stated however, the rezoning of the property was approved by the Commissioners today.

Mike Moesner made a motion to table PP-10-07 to the November 8, 2010, meeting. The motion was seconded by Brad Overton and unanimously carried.

The President commented there are only four Board members present this evening and it will take a unanimous vote of all four members to approve or deny the rezoning petition in order to go before the County Commissioners for final approval and as a general rule the Commissioner sitting on this Board typically abstains from voting until it comes before the Commissioners. He stated therefore, there is no way they can get a recommendation. He stated it can go to the Commissioners without a recommendation but the new Board member (Phil Baxter) is supposed to be here and staff is trying to locate him so they are going to move down on the agenda to discuss the remaining items and then hear the rezoning.

At that point staff returned to the meeting indicating Mr. Baxter is not coming to the meeting. The President stated they will then follow the agenda. He stated he can't say how Mr. Noffsinger will vote but if he abstains the most they will have is three votes either for or against which will mean there will be no recommendation so there is a high likelihood it will be sent to the Commissioners without a recommendation.

Attorney Doll advised the Commissioners could approve it, deny it or send it back to this Board for a recommendation.

**REZONING PETITIONS:**

PC-R-10-06 – Petition of Solarbron Pointe, Inc. by Kent A. Brasseale II, Esq., Attorney. OWNERS OF RECORD: George Tillman Allen Revocable Trust by Judith Thompson, Trustee & Fifth Third Bank, Co-Trustee, by Patrick Koontz, V.P. & Trust Officer To rezone 13.745 acres located on the S side of Frontage Rd. South SR66 approximately 750' E of the intersection formed by Epworth Rd (W 1050) & Frontage Rd. South SR 66 and the E side of Orthopaedic Dr. approximately 800' E of the intersection formed by Orthopaedic Dr. & Epworth Rd. Ohio Twp.

from “A” Agriculture to “C-4” General Commercial with a Use and Development Commitment. (Complete legal on file.) *Advertised in the Boonville Standard September 30, 2010.*

Kent Brasseale, Attorney, Kahn, Dees, Donovan and Kahn stated he was here on behalf of Solarbron. He stated also present is Terry Miller, CEO and Derrick Bitter, CFO of Solarbron if they have any questions. He stated a representative of the property owner, Patrick Koontz is here.

The President called for a staff report.

Mrs. Rector stated they have all the return receipts except for either the unopened letter or return receipt for Walter and Marilyn Borst. She explained this is a petition to rezone 13.745 acres from Agriculture to “C-4” General Commercial with a Use and Development Commitment. She stated the Use and Development Commitment excludes certain permitted “C-4” uses which are taverns, bars and night clubs; fireworks sales; pawn shops, freight or truck yard or terminal and taxidermist. Mrs. Rector stated there is no minimum yard requirement for this zoning. She added that the Comprehensive Plan shows the property being proposed commercial bordering on medium to high density residential and added the property is currently vacant. She stated the property to the east is zoned Agriculture – farm house ; C-4 – Jacobsville Developers East (medical facility) & Agriculture – Church; to the south is R-1D – Schnapf Hill Subdivision; to the west is C-4 – Farm Ground & residence and to the north is C-4 – vacant or residences. Mrs. Rector stated there is no flood plain on the property and it has access off SR 66 Frontage Road South and touches dedicated right of way for Orthopaedic Drive. She then stated their stated use is for an assisted living/ skilled nursing facility and related business activities which is allowed in the proposed zoning. She added the application is in order for approval.

Mr. Brasseale stated that pretty much tells the story. He stated as Mrs. Rector indicated, there is a frontage road and Orthopaedic Drive is there as well so they wouldn’t be looking for any new access. He stated he thinks the “C-4” zoning they are asking for is consistent with the land use map that Warrick County has and they believe this is a nice introduction in that it is a living facility and it is a commercial activity and it is a buffer into itself but it is consistent with the medical facilities in the area. Mr. Brasseale stated that is all he has unless they have any questions.

Mrs. Rector stated she has spoken with them and they are aware that if this is subdivided in any manner that the Thoroughfare Plan does show Orthopaedic Drive continuing through the property and eventually going to Grimm Road.

Mr. Brasseale commented they have not had any remonstrators expressing any concerns about the type of activities there but they wanted to exclude in the Use and Development Commitment things that weren’t part of an assisted living facility and that subsequent owners wouldn’t be able to do things they thought would be offensive to the adjoining property.

Guy Gentry asked if Solarbron was going to build a facility on this property.

Mr. Brasseale stated they are looking at this site. He stated they have a purchase contract on it and that is the plan.

Ascertaining there were no questions from the Board, the President called for remonstrators.

Scot Jenkins, 10395 SR 66, stated they just fixed the drain but it runs through his property and he is at the bottom of that water shed. He stated they flooded his house last year and that was with crops in the field and they are talking about putting up something that won’t take up any water. He asked where that water will go. He stated they had a note on their paper to call a number to ask questions and he has never heard from them so he is here asking. He stated it runs downhill and he is at the bottom of the hill.

Mrs. Rector stated when they do the development of the property, whether it be just one facility or something else they will have to submit drainage plans to the Drainage Board to show where

the drainage will go and he will get notice of that. She stated if they do a subdivision he will also get notice and there will be public hearings held on that. She stated right now they don't know what they are building or where it will go, this is just the zoning not a development plan. She stated that comes in the future and they will have to meet that.

Mr. Jenkins asked if they could do that before they rezone it because right now he has no neighbors and no noise and he has put up with the highway for the last ten years.

Mrs. Rector stated rezoning the property is not going to make a difference in the drainage issue.

Mr. Jenkins stated that is the only issue he has because he wants to know what they are going to do about the guy at the bottom of the hill where it all goes because last year it went through his house.

Mrs. Rector stated Attorney Doll could advise him on the law regarding drainage running over onto someone else's property.

Mr. Jenkins stated it cost him \$25,000 to put a ditch in.

Attorney Doll stated this zoning is just changing what potentially could be built on this property. He stated when and if someone brings in a development plan they will have to go before the County Drainage Board and that is where they will address his question. He stated he will have a right to be there and they will have to do studies to show how much water they are generating on this land and where it is going to be held on this property and then discharged. He stated before they can be approved for something to actually be built, they will have to successfully be approved by the Drainage Board.

Mr. Jenkins asked if he will be notified of when and if this meeting happens to which he was informed he would be.

Ascertaining there were no other remonstrators and being no questions from the Board, the President called for a motion.

Mike Moesner made a motion to recommend approval to the County Commissioners of PC-R-10-06 from "A" Agriculture to "C-4" General Commercial with a Use and Development Commitment. The motion was seconded by Brad Overton. Mike Moesner, Brad Overton and Guy Gentry voted for the motion and Art Noffsinger abstained. The President stated this petition will be forwarded to the County Commissioners on November 8, 2010 with no recommendation but they will get a certified report of this meeting.

#### **AMENDING ORDINANCES TO THE SUBDIVISION CONTROL ORDINANCE:**

AN ORDINANCE TO AMEND ARTICLE II SECTION 2: TERMS DEFINED SUBSECTION 45(b) SUBDIVISION OF LAND AND SUBDIVIDE OF THE SUBDIVISION CONTROL ORDINANCE FOR WARRICK COUNTY, INDIANA

The purpose of this ordinance is to create an Exempt Division category. *Advertised in the Boonville Standard September 2, 2010. Continued from the September 13<sup>th</sup> meeting.*

AN ORDINANCE TO AMEND ARTICLE II SECTION 2: TERMS DEFINED SUBSECTION 45(a) SUBDIVISION OF LAND AND SUBDIVIDE OF THE SUBDIVISION CONTROL ORDINANCE FOR WARRICK COUNTY, INDIANA

The purpose of this ordinance is to allow division of property without including all parcels listed on one deed. *Advertised in the Boonville Standard September 2, 2010. Continued from the September 13<sup>th</sup> meeting.*

Mrs. Rector stated these ordinances were continued from the last meeting after a lot of discussion. She stated she, Guy and Attorney Doll have talked and they decided to ask the

Commissioners to hold a joint meeting to discuss these ordinances. She stated the Commissioners have made a motion to hold a joint session on November 8, 2010, at 5:30 pm to discuss these ordinances so both Boards are on the same page.

Attorney Doll suggested this Board also make a similar motion for a joint session. He reminded the Board these are items regarding Exempt Divisions.

Guy Gentry commented he knows someone sold an acre of ground to an individual years ago who built a house and then they wanted an additional acre for a horse barn so he sold another acre and then later sold another acre. He stated then it went to a sheriff sale and the original owner's son bought the property and he wants to give his son just the acre with the house and put the other two acres back to the original farm.

Mrs. Rector stated they probably never did anything through the office and because they never came in for permits the office didn't know the property was split.

Discussion ensued if it could be a lot line adjustment to which Attorney Doll stated if it wasn't a subdivision it couldn't be a lot line adjustment. Further discussion ensued over the existing house and septic system.

Mr. Gentry commented he would speak to Mrs. Rector about this tomorrow and called for a motion regarding the joint session.

Brad Overton made a motion to hold a joint session with the County Commissioners on November 8, 2010, at 5:30 pm in the Commissioners Meeting Room to discuss the two "exempt division" ordinances. The motion was seconded by Mike Moesner and unanimously carried.

#### **AMENDING ORDINANCES TO THE COMPREHENSIVE ZONING ORDINANCE:**

AN ORDINANCE TO AMEND ARTICLE XXI DEVELOPMENT REGULATIONS SECTION 1 BASIC STANDARDS BY ADDING SUBSECTION (e) TO THE COMPREHENSIVE ZONING ORDINANCE FOR WARRICK COUNTY INDIANA.

The purpose of this ordinance is to allow non-residential lots in a "C-1" Neighborhood Commercial subdivision to access a building site by an ingress/egress easement. *Advertised in the Boonville Standard September 30, 2010.*

The President called for a staff report.

Mrs. Rector explained this is what was discussed at the last meeting to allow commercial subdivisions to access by ingress/egress easements. She stated the ordinance she showed them placed it in "C-4" zoning but she changed it to "C-1" so it would be allowed in all commercial zonings, which was the intent.

Brad Overton asked if this is what Wal-Mart did to which Mrs. Rector stated it is.

Art Noffsinger made a motion to approve the ordinance. The motion was seconded by Mike Moesner and unanimously carried.

#### **OTHER BUSINESS:**

Complaint – Paul Cannon given until Oct. 4<sup>th</sup> to clean up property.

Paul Cannon was present.

The President called for a staff report.

Mrs. Rector stated this matter appeared before the Board August 9, 2010 and he was given until October 4<sup>th</sup> to clean up the property. She stated on October 4, 2010 the Zoning Inspector went to the property and his report states there are still two old trucks on the property with garbage in them and piles of trash around the garage. She added he doesn't think the whitish vehicle back in the trees is operable.

Mr. Cannon stated that vehicle needs an oil pump so right now it is not running.

Mrs. Rector asked if the red one is licensed and running to which Mr. Cannon stated it is. Mrs. Rector stated the Board has the photos taken on October 4<sup>th</sup> which shows how much he has cleaned up the property since the complaint was filed. Mrs. Rector stated she is using the words from the report, and asked what is the “garbage” and “trash” in the trucks.

Mr. Cannon stated it is his stuff, it is not trash. He stated one man’s treasure is another one’s trash. He stated it is not something he plans to throw away. He added some of it belongs to his brother and some to his son-in-law.

Guy Gentry stated he thinks the property looks remarkably well from where he started.

Mr. Cannon stated he has worked on it even yesterday.

Art Noffsinger stated he agrees after looking at the photos from the beginning and he thinks he has done a great job and doesn’t see any problem with this.

Mr. Cannon stated he is tired and those trucks are staying where they are. He stated they are licensed and insured and he has a lawn sweeper and tools in the back of one.

Art Noffsinger stated he doesn’t think there are any complaints right now because he has done a good job and he wants to thank him for co-operating. He then made a motion to remove this complaint from the Agenda and close the file. The motion was seconded by Mike Moesner and unanimously carried.

**ATTORNEY BUSINESS:**

None.

**EXECUTIVE DIRECTOR BUSINESS:**

Mrs. Rector reported she is going before the County Council next month for a transfer of funds from the Planner III line item and Per Diem line item in order to purchase five new computers. She stated the computer tech has done as much to the computers as he can but they are no longer working properly. She stated the office needs computers with more memory because of the programs they have to run. She stated they have the money; it just needs to be transferred and won’t need to ask for an additional appropriation. The Board Members agreed to ask for the request.

Being no other business the meeting adjourned at 6:40 pm.

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Guy Gentry, President

ATTEST:

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Sherri Rector, Executive Director